491. Also see *State* v. *Kemmerer,* 15 S. D. 504. *Derrick* v. *Brown,* 66 Ala. 162; *Frink* v. *Rarst,* 14 Ill. 304, 58 Am. Dec. 575, overruling *Doe d. Frisby* v. *Ballance,* 2 Gilman 141; *Reynolds* v. *Shaver,* 59 Ark. 299, 27 S. W. 78, 43 Am. St. Rep. 36. These two lines of authorities are apparently in conflict. The decision in question is in harmony with the latter line, following a previous decision of its own court, *Derrick* v. *Brown,* supra.

MUNICIPAL CORPORATIONS—DELEGATION OF POWERS—MONEY TO COVER EXPENSE OF MAKING INVESTIGATIONS PLACED AT DISPOSAL OF MAYOR.—The common council passed a resolution appropriating money and placing it at the disposal of the mayor to make extensive investigations and directing the city controller to pay out of said appropriation any bills presented and approved by the mayor. Thereupon the complainant sought an injunction against the common council, mayor, controller, and treasurer, on the ground that it was unlawful to expend money for this purpose. The defense was on the broad ground of public policy. *Held,* that "this provision is in contravention of mandatory provisions of the city charter and is therefore illegal and void." *Attorney General ex rel. Maguire* v. *Murphy,* (1909), — Mich. —, 122 N. W. 260.

The right of a corporation to delegate its powers to another is now generally recognized, provided the state has expressly authorized the delegation of such powers by the corporation. *City of Brooklyn* v. *Breslin et al.,* 57 N. Y. 591. And it is also well settled that in the absence of such express authority, the council must itself exercise all discretionary powers. DILLON, MUNICIPAL CORP., Ed. 2, §60. *The City of Kankakee* v. *Potter et al.,* 119 Ill. 324. *Collins* v. *Holyoke,* 146 Mass. 298. However as indicated in the able dissenting opinion there is good reason for sustaining the action of the council on the ground of public policy. In the principal case the money was to be expended for acquiring information for the benefit and guidance of the council in its determination of public questions of the utmost importance and also to provide for the legitimate expense of the mayor in the performance of duties which the council had imposed on him. No public right was involved. The controller had no authority to pay money upon the certificate of the mayor alone, and the court had found that the mayor intended to have his bills allowed in accordance with the provisions of the city charter. Under such circumstances there would seem to be no reason for interfering with the municipality in dealing with such a purely local matter. *Attorney General* v. *Detroit,* 26 Mich. 264. Judge COOLEY speaking for the court in *Port Huron* v. *McCall,* 46 Mich. 565 says:—"There is a principle of law that municipal powers are to be strictly interpreted, and it is a just and wise rule. Municipalities are to take nothing from the general sovereignty except what is expressly granted; but when a power is conferred which in its exercise concerns only the municipality, and can wrong or injure no one, there is not the slightest reason for any strict or literal interpretation with a view to narrowing its construction. If the parties concerned have adopted a particular construction not manifestly erroneous, and which wrongs no one, and the state is in no manner concerned, the construction ought to stand. That

is good sense, and it is the application of correct principles in municipal affairs."

MUNICIPAL CORPORATIONS—REMOVAL OF OFFICER BY REDUCING SALARY—INTERFERENCE OF COURT.—The office of city auditor was created and duties were prescribed by charter. The Common Council not having power to abolish this office, passed an ordinance providing for a very material reduction in salary. Thereupon the relator contending that the mayor and council cannot do indirectly what they cannot do directly asks for mandamus commanding them to restore the salary. *Held,* that "the interposition of the courts in cases where it is manifest that the municipal authorities have sought, either directly or indirectly to abolish a statutory office or to starve out the incumbent" is justified and that the mandamus herein issued be made peremptory. *State ex rel. Thurmond* v. *City of Shreveport* (1909), — La. —, 50 South. 3.

The cases cited in the opinion expressly support the decision of the majority and the decision is in accord with the general principle that "the sufficiency and reasonableness of the cause of removal are questions for the courts." DILLON MUNICIPAL CORP., Ed. 3, §252. *Denis* v. *Shakespeare,* 43 La. Ann. 92. In *Reid* v. *Smoulter,* 128 Pa. St. 324, the court held that "to repeal the provision for a salary altogether is to remove a clerk from office." And in *Hoke* v. *Henderson,* 15 N. C. 1, it was held that so long as the legislature continues an office it cannot oust an incumbent during the term for which he was chosen. *Cotten* v. *Ellis,* 52 N. C. 545, is authority for the distinction between a statute which reduces a salary during the term of office and one which takes away the salary altogether, and the court there held that "in the latter case, the object would evidently be to starve the incumbent out of office and thereby do indirectly what could not be done directly." The case of *Board* v. *Westbrook,* 64 Miss. 312, is directly in point and it is there held that the laws providing for the chief health officer "cannot be nullified in any county by the board fixing the salary at a rate so low that no competent physician will accept the office. "Other cases which may be cited on the same point are *Morris* v. *Glover,* 121 Ga. 751, and *Massenburg* v. *Commissioners,* 96 Ga. 614. In the principal case the dissenting judges did not render an opinion but we may conclude that their dissent was based on a decision rendered by the same court some two months before this decision was rendered. It is on authority of that case,*State* v. *Village of Dodson,* (La), 49 South. 635, that the defendants rely. However the holding of the court in that case was that "under the circumstances disclosed by the record" in that case the court could not interfere. The facts there do not show that the action of the council in reducing the salary was factious or "resorted to merely as an indirect or colorable means of abolishing the office or of removing the incumbent." After diligent search it seems to the writer that the weight of authority is clearly with the majority opinion. If the allegations which are distinctly made by the plaintiff are proved, and in the opinion it is stated that they are, then there seems to be no escape from the conclusion reached.